

PUBLIC LAW BOARD NO. 5964

**PARTIES) UNITED TRANSPORTATION UNION - YARDMASTERS DEPT.
TO)
DISPUTE) GRAND TRUNK WESTERN RAILROAD INCORPORATED**

STATEMENT OF CLAIM:

Claim for Yardmaster D. Bartaway for eight hours time and one-half rate for working December 25, 1995 and only being paid eight hours at the straight time rate of pay as an Extra Yardmaster.

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The Organization maintains that pursuant to Section 1 of Article III of the November 29, 1967 National Agreement that the Claimant is entitled to holiday pay at the rate of time and one-half, in addition to his regular pay, for work performed on a contractual holiday, namely, Christmas, December 25, 1995.

There is no question that the Claimant, an extra yardmaster, was called to fill a vacancy and did in fact work as a regular yardmaster on December 25, 1995. However, the Carrier says the fact that the Claimant was worked on a holiday did not have the effect of changing his status as an extra yardmaster for purposes of compensation.

Article III, Section 1, of the November 29, 1967 National Agreement, as cited in pertinent part by the Organization reads as follows:

Section 1.

Effective January 1, 1968, yardmasters shall be paid at the rate of time and one-half for working on any of the following enumerated holidays, in addition to their regular pay:

* * * * *

Christmas

The Organization maintains that Article 1, Definitions and Duties, of the November 29, 1967 National Agreement, does not differentiate from between the term yardmaster and extra yardmaster, this agreement provision reading:

The term "yardmaster" as used herein, shall include yardmasters and assistant yardmasters, but shall not include general yardmasters.

It is the contention of the Carrier that paragraph C of Article II of the September 28, 1968 Agreement restricts the amount of compensation to which extra yardmasters, such as the Claimant, are entitled. This agreement provision reads:

The rest day holiday and vacation holiday provided by this Section 6 shall not apply to extra yardmasters, or to regularly assigned yardmasters who may be eligible for holiday pay falling on a rest day or during a vacation period pursuant to other schedule agreements.

The Board is not persuaded by Carrier argument that Article II, paragraph C, of the September 28, 1968 Agreement supersedes Article III, Section 1, of the November 29, 1967 National Agreement as concerns the dispute here at issue. The language of the 1968 Agreement basically provides that "rest day" and "vacation" holiday pay shall not apply to extra yardmasters. We find nothing in such rule that may be read as having intended to modify or amend the provisions of the latter rule as concerns the payment of time and one-half compensation, in addition to regular pay, to extra yardmasters who perform yardmaster work on a holiday. If negotiators of the national rules had intended what the Carrier here seeks, it would seem to the Board that such a condition would have been specified in clear and unambiguous language.

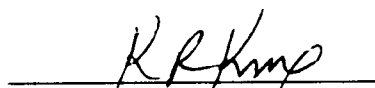
The Claimant having held the type of assignment referenced in Article III, Section 1, of the November 29, 1967 National Agreement, namely, that of a yardmaster, on one of the enumerated holidays, he is entitled to the holiday pay benefit.

AWARD:


Claim sustained.



Robert E. Peterson
Chair & Neutral Member



K. R. Knox
Carrier Member



L. E. Miller
Organization Member

Detroit, MI
September 22, 1998